

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NANCY McMULLEN,
 Petitioner,

vs.

STATE OF NEVADA, *et al.*,
 Respondents.

3:15-cv-00251-RCJ-WGC

ORDER

Petitioner, a Nevada prisoner, has submitted a document captioned as petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (ECF #1). Petitioner has failed to submit an application to proceed *in forma pauperis* or pay the filing fee. Accordingly, this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2) and Local Rules LSR1-1, 1-2.

Thus, the present action will be dismissed without prejudice to the filing of a habeas petition pursuant to 28 U.S.C. § 2254 on the form required by this court in a new action with either the \$5.00 filing fee or a completed application to proceed *in forma pauperis* on the proper form with both an inmate account statement for the past six months and a properly executed financial certificate.

Further, the court notes that petitioner has not named her custodian as a respondent. Under Rule 2(a) of the Rules Governing § 2254 cases, petitioner must name as a respondent the officer who has current custody of petitioner—usually the warden of the prison. Failure to name the custodian as

1 respondent deprives the court of personal jurisdiction. *Johnson v. Reilly*, 349 F.3d 1149, 1153 (9th
2 Cir. 2003).

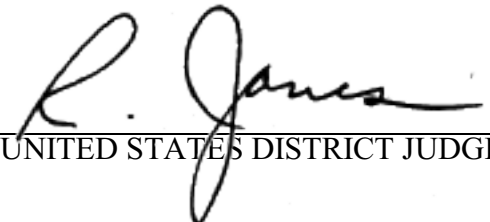
3 Petitioner at all times remains responsible for properly exhausting her claims, for calculating
4 the running of the federal limitation period as applied to her case, and for properly commencing a
5 timely-filed federal habeas action.

6 **IT IS THEREFORE ORDERED** that this action is **DISMISSED** without prejudice to the
7 filing of a petition in a new action with either the \$5.00 filing fee or a properly completed application
8 form to proceed *in forma pauperis*.

9 **IT IS FURTHER ORDERED** that the Clerk shall send petitioner two copies each of an
10 application form to proceed *in forma pauperis* for incarcerated persons and a noncapital Section
11 2254 habeas petition form, one copy of the instructions for each form, and a copy of the papers that
12 he submitted in this action.

13 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** accordingly and
14 close this case.

15 Dated this 11th day of May, 2015.

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18 UNITED STATES DISTRICT JUDGE
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